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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/715,299

11/17/2003

John W. Steedly

4060

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27727

7590

05/25/2006

PEDERSEN & COMPANY, PLLC

P.O. BOX 2666

BOISE, ID 83701

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/715,299	STEEDLY, JOHN W.	
	Examiner	Art Unit	
	James O. Hansen	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “a box having front, right, rear and left sides with top edges, said top edges having internal dimensions” is unclear and confusing as presently worded. As presently stipulated, it is not clearly understood what may constitute the “internal dimensions”, e.g., do each of the edges constitute an “internal dimension” or do all the edges when assembled to form a boundary of a volume define an “internal dimension”? As such, the metes and bounds of the claimed limitation are not properly understood. It is noted that the same lack of clarity is present concerning the following recitation: “said lower interior section having external dimensions...” [does the lower section have “external dimensions” **or** does the lower section define a perimeter with an associated external dimension ?]. The phrases “all of which front...” & “all of which sides...” is confusing as presently worded and requires clarification. Additionally, use of the trademark /trade name “Corian®” renders the claim scope uncertain since the trademark / trade name and the product it identifies is sometimes indefinite, uncertain and arbitrary. The formula or characteristics of the product may change from time to time and yet it may continue to be sold under the same trademark / trade name.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grogan [U.S. Patent No. 6,325,281]. Grogan (figures 1-4) teaches of a display case (fig. 1) comprising: a box (30) having front, right, rear and left sides with top edges (33's), the top edges having internal dimensions [the edges are viewed as defining a contiguous internal dimension as best understood by the examiner – note 112(2) rejection above], and the box having a bottom (31), all the front, right, rear and left sides and bottom are composed of polystyrene foam (expanded polystyrene), and all the sides and bottom are permanently attached together (note figs. 2 and 4 for example); and a removable top (60) for the box, the top having an upper section (61) with a top covering, the upper section being adapted for resting on the top edges of the front, right, rear and left sides to create a display platform, and the upper section having a bottom side (fig. 4); the top also having a lower interior section (62) adhered (secured) to the bottom side of the upper section, the lower interior section having a perimeter defining an external dimension equal to or slightly less than the internal dimension defined by the front, right, rear and left side top edges [as best understood by the examiner], so that the lower interior section fits within a space (shown in fig. 4) defined by the internal perimeter dimension of the front, right, rear and left side top edges; and wherein the front, right, rear and left side top edges have an external perimeter dimension [as best understood by the examiner], and the upper section for

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the top of the box fits flush with this external dimension, so that the top covering of the upper section enhances the appearance of the display platform. Grogan teaches applicant's inventive claimed structure as disclosed above, but does not show the upper section top covering as being manufacture from a material selected out of the following group: plywood or paneling or laminate for example. However, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to vary the type of material used to produce the top depending upon the anticipated use or need of the user; furthermore, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious personal preference.

Response to Arguments

5. Applicant's arguments filed March 20, 2006 have been fully considered but they are not persuasive. As to applicant's argument concerning the top being made of different materials, it is viewed that applicant's remarks have been adequately addressed in the above prior art rejection. As to applicant's argument concerning the relationship of the top relative to the top edges of the box, it is viewed that Grogan clearly demonstrates this relationship (note fig. 4 of Grogan) in as much as applicant exhibits the claimed limitations (note fig. 3 for example of the instant invention) in comparison, and as best understood by the examiner.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

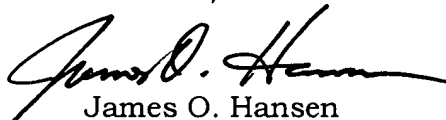
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
May 22, 2006